

FILED

FEB 18 2021

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

AFFIDAVT

1. This affiant, Frederick Kissner, a U.S. Park Ranger at Great Smoky Mountains National Park, being duly sworn, states:

2. This affiant is currently investigating Kendall Q. DUNCAN (DOB 07/07/1994) (hereinafter DUNCAN) for violations of federal laws, specifically: 36 CFR 4.23(a)(1) (under the influence of alcohol, or a drug, or drugs, or any combination thereof, to a degree that renders the operator incapable of safe operation); TCA 55-10-205(a) (adopted under 36 CFR 4.2(b)) (any person who drives any vehicle in willful or wanton disregard for the safety of persons or property commits reckless driving); and 36 CFR 4.14(b) (carrying or storing a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal is broken or the contents of which have been partially removed, within a motor vehicle in a park area is prohibited).

3. The statements contained in this Affidavit are based on this affiant's investigation and observations.

4. This affiant is a law enforcement officer with the National Park Service (NPS). The affiant is a graduate of the Federal Law Enforcement Training Center and possesses a level one (full authority) NPS law enforcement commission. He has worked for the NPS in a law enforcement capacity for approximately five-and-a-half years. He has served in his current position as a law enforcement officer at Great Smoky Mountains National Park for approximately four-and-a-half years. During his five-and-a-half years in law enforcement he has had annual law enforcement training, numerous elective training, and personal experience in investigating many crimes involving violations of federal criminal laws. He has investigated and is familiar with crimes such as, but not limited to, impaired driving, fleeing while operating a

motor vehicle, assault, and interfering with agency functions as pertaining to areas of federal jurisdiction.

5. On October 4, 2020, within the boundaries of Great Smoky Mountains National Park, the affiant was dispatched to a single motor vehicle accident on Highway 441 N. Spur before the tunnel. The affiant arrived on scene at approximately 2134 hours. The affiant observed a 2019 Ford EcoSport, Florida registration AFBR43, heavily damaged, in the roadway. The driver was later identified as DUNCAN. DUNCAN was in the driver's seat bleeding and was in and out of consciousness. Multiple unaffiliated people were assisting him medically.

6. The affiant was unable to interview DUNCAN or his passenger due to their injuries and level of consciousness. DUNCAN and the passenger were transported from the scene by ambulance to a landing zone in Pigeon Forge, Tennessee. They were then flown by helicopter to the University of Tennessee Medical Center in Knoxville, Tennessee, by helicopter.

7. On scene, the affiant observed an open 375 ml bottle of Capriccio Sangria alcohol outside of the passenger door. It contained a small amount of liquid in the bottle. There was an empty cardboard box made for holding four Capriccio Sangrias on the passenger side floorboard.

8. The affiant interviewed witnesses on scene. Three witnesses stated that the vehicle was swerving in and outside of its lane and traveling at a high rate of speed. A fourth witness stated that they entered the curve with the Ford. They saw that the Ford was not turning or braking. The Ford continued straight and struck the rock wall.

9. The affiant interviewed an unaffiliated male who was providing medical help to DUNCAN. He stated that, while helping him, he asked DUNCAN if he had been drinking. DUNCAN told him that he had been.

10. The affiant interviewed the passenger on October 5, 2020, at approximately 1440 hours. She stated that she did not remember anything from the accident. She was confused

about where she was coming from or where she was going. The affiant asked the passenger how much she and DUNCAN had to drink. She stated that she and DUNCAN had two sangrias each.

11. The affiant interviewed DUNCAN on October 5, 2020, at approximately 1437 hours. DUNCAN stated that they were headed back to their cabin. He stated that he was driving. The passenger was asleep. He was trying to wake her up so that she could navigate by phone to their cabin. DUNCAN couldn't remember anything else. DUNCAN did not admit to drinking alcohol.

12. The affiant served a subpoena on or about November 6, 2020, to the Custodian of Medical Records at U.T. Medical Center for the medical records of Kendall Q. DUNCAN. The intention of this subpoena was to review the results of blood tests. It was believed that the tests would show DUNCAN's blood alcohol content when admitted to U.T. Medical Center for the injuries sustained in the motor vehicle collision. The medical records were received on November 16, 2020. The records revealed that blood was taken and tested but not tested for alcohol content.


13. There are now four vials of blood suspected of containing ethyl alcohol (ETOH), also known as ethanol, that were taken from Kendal Q. DUNCAN's body at 2250 hours on October 4, 2020, during medical procedures at the University of Tennessee Medical Center. One of those vials has been untested.

14. The affiant has contacted the Tennessee Bureau of Investigation on February 5, 2021, concerning the length of time the blood has been in the vial. They explained that alcohol is stable, unlike other drugs, and should still be present in the blood especially if a quality vial and preservatives were used.

15. Based upon the statements above, there is probable cause to believe that alcohol was a factor in the collision that DUNCAN caused. Failing to operate a motor vehicle safely

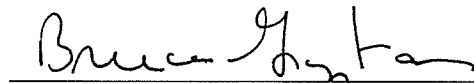
while having an elevated blood alcohol content is a violation of 36 CFR 4.23(a)(1). The affiant respectfully asks that a search warrant be issued for the collection of any/all blood samples that were taken from Kendal Q. DUNCAN during the late evening of October 4, 2020, or early morning of October 5, 2020, at the University of Tennessee Medical Center.

FURTHER AFFIANT SAYETH NAUGHT.



Frederick Kissner
United States Park Ranger
National Park Service

Subscribed and sworn to before me
this the 18th day of February, 2021.



HON. H. BRUCE GUYTON
UNITED STATES MAGISTRATE JUDGE